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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,559	12/11/2003	Ted. F. Slupesky	BEA9-2003-0021-US1	8775

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EXAMINER

LY, CHEYNE D

ART UNIT PAPER NUMBER

2168

DATE MAILED: 06/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/733,559	<b>Applicant(s)</b> SLUPESKY ET AL.	
	<b>Examiner</b> Cheyne D. Ly	<b>Art Unit</b> 2168	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11 December 2003</u> . | 6) <input checked="" type="checkbox"/> Other: <u>dictionary.com (page 1)</u> .         |

### **DETAILED ACTION**

1. Claims 1-20 are examined on the merits.
2. The IDS, December 11, 2003, has been fully considered.

### **CLAIM REJECTIONS - 35 USC § 101**

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 14-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
5. Claims 14-20 are directed to an article comprising a computer-readable signal-bearing medium such as "carrier signal" (claim 15). However, the carrier signal does not fall within any of the categories of patentable subject matter set forth in 35 U.S.C. 101. Therefore, claims 14-20, which embodies the carrier signal as the claimed invention, is not statutory.

### **CLAIM REJECTIONS - 35 U.S.C. § 112, SECOND PARAGRAPH**

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
8. Claim 1, line 5-6, recites "invoking...in response to said interpretation" which causes said claim to be vague and indefinite because it is not clear as to whether the "invoking"

is in response to the action of “interpreting” in step (b), or the interpreted command (result). For example as supported by dictionary.com, one interpretation is that the act of interpreting alone triggers the invoking step. Alternatively, the actual interpreted command (result of interpreting) triggers the invoking step. The same issue is present in claims 8 and 14. Claims 2-7, 9-13, and 15-20 are rejected for being dependent from claim 1, 8, or 14.

### **CLAIM REJECTIONS - 35 USC § 102**

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lennon et al. (US 20020107973A1) (Lennon hereafter).

### **CLAIM INTERPRETATIONS**

11. It is noted that Lennon does not explicitly recite the limitation of “managed object.” The instant specification exemplifies “managed object” as hardware devices which may include storage devices, servers, and routers (page 4, last paragraph). Lennon discloses the below cited method, computer system and article as directed to storage devices and servers (Figures 9-11). Therefore, the disclosure of Lennon has been interpreted as “managed object.” Further, the disclosure of the “get” (page 5, column 1, [0074]) command by Lennon has been interpreted as a function as exemplified by the instant specification (page 6, lines 1-16).

## **BASIS FOR PRIOR ART**

12. In regard to claim 1, Lennon discloses a method of communicating with a managed object, comprising:

- a. Dynamically generating (page 4, column 2, [0073], especially the disclosure of “dynamically generating XML descriptions that conform to these schemas”) an interpretable format from a meta data description for a function of said object (claim 1);
- b. Interpreting an operator input command (Abstract etc., and page 9, [0101]) according to said format (claim 92, and page 9, column 1, [0100], to page 10, column 1, line 7); and
- c. Invoking an appropriate action on said managed object in response to said interpretation (claim 92).

13. In regard to claim 2, Lennon discloses translating a response received from said managed object into said interpretable format (page 4, column 2, [0073], and page 5, column 1, [0077]).

14. In regard to claim 3, Lennon discloses meta data description for a function of said object includes a uniform resource locator to said function (page 5, column 1, [0074] and [0078], and page 9, column 1, [0103]).

15. In regard to claim 4, Lennon discloses the metadata describes one or more internal commands associated with said functions (page 5, column 1, [0074]). It is noted that the “get” command described by Lennon is consistent type of internal command exemplified by the instant specification on page 6, lines 1-16.

16. In regard to claim 5, Lennon discloses dynamically generating (page 5, column 1, [0075]) an interpretable format from a mete data description (claim 1) includes building a data structure to inform an operator of a require format for communication with said managed object (page 5, column 2, [0084], to page 8, column 1, [0099]).
17. In regard to claim 6, Lennon discloses the interpretable format dynamically interpreting (page 5, column 1, [0075]) response data (claim 92, and page 9, column 1, [0100], to page 10, column 1, line 7).
18. In regard to claim 7, Lennon discloses the step of dynamically generating an interpretable format from a mete data description for a function of said object includes an interface such as a graphical user interface (Figures 1 and 2, especial item 101, "Media Browser").
19. In regard to claims 8-20, Lennon discloses the above cite method being implemented in a computer system and article comprising a computer-readable signal-bearing medium (Figures 1 and 2).

### CONCLUSION

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:
- a. Coulthard et al. (US 20040003013A1) as directed to transferring data and storing metadata across a network requiring "a interpretable format"(Abstract etc.).
21. Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance.
- Representatives are available to answer your questions daily from 6 am to midnight

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(EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

22. For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199. The USPTO's official fax number is 571-272-8300.

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Dune Ly, whose telephone number is (571) 272-0716. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim Vo, can be reached on (571) 272-3642.

C. Dune Ly  
Patent Examiner  
6/11/06

